

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA

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UNITED STATES OF AMERICA,

Plaintiff,

v.

Civil Action No.

FRANKS PETROLEUM CORP. ;  
LOUISIANA LAND AND  
EXPLORATION COMPANY;  
E. on NORTH AMERICA, INC.;  
BP AMERICA, INC.;  
H.L. BROWN OPERATING, L.L.C.;  
DAVIS OIL COMPANY;  
KERR-McGEE OIL & GAS  
ONSHORE, L.L.C.;  
DEVON ENERGY PRODUCTION  
COMPANY, L.P.;  
SANDEFER PETROLEUM  
COMPANY;  
BASS ENTERPRISES  
PRODUCTION COMPANY; and  
QUINTANA PETROLEUM  
CORPORATION

Defendants.

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**COMPLAINT**

The United States of America, by authority of the Attorney General, and at the request of the United States Coast Guard ("Coast Guard"), states upon information and belief as follows:

**NATURE OF ACTION**

1. This is a civil action under Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") Section 107, 42 U.S.C. § 9607, for recovery of costs incurred by the United States in responding to the release or

threatened release of hazardous substances at the Castex Systems, Inc. oilfield waste disposal facility located near Jennings, Jefferson Davis Parish, Louisiana (the "Site").

#### JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. §§ 9607(a) and 9613(b).

3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) and (c) and 42 U.S.C. § 9613(b).

#### DEFENDANTS

4. Each Defendant is a "person" within the meaning of CERCLA Section 101(21), 42 U.S.C. § 9601(21).

5. Each Defendant:

(a) conducted business in the State of Louisiana and/or by contract, agreement or otherwise, arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by each such Defendant at the Site, within the meaning of CERCLA Section 107(a)(3), 42 U.S.C. § 9607(a)(3); or

(b) is a successor-in-interest to a person that conducted business in the State of Louisiana and/or by contract, agreement or otherwise, arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person at the Site, within the meaning of CERCLA Section 107(a)(3), 42 U.S.C. § 9607(a)(3).

## GENERAL ALLEGATIONS

### **I. The Site**

6. The Site is located in Jefferson Parish, Louisiana between the town of Jennings and the community of Mermentau at the corner of U.S. Highway 90 and Louisiana Highway 1126. The Site is approximately 20 acres in size.

7. Between approximately 1982 and 1989, the Site was operated by Castex Systems, Inc. ("Castex") as an oilfield waste disposal facility.

8. During the oilfield waste disposal facility's period of operation, Castex accepted deliveries from oilfield operators, including Defendants, of produced saltwater, drilling mud, tank bottoms, and other wastes.

#### **A. Produced Saltwater**

9. After produced saltwater was delivered to the Site, Castex placed it either in an on-site pond or in a system of on-site tanks.

10. The produced saltwater delivered to the Site contained naturally occurring radioactive material ("NORM").

11. NORM in the produced saltwater co-precipitated with silicates and carbonates and accumulate in sludge.

12. At various times including during a fire in 1988, sludge containing NORM was spilled from on-site tanks or otherwise released to the environment.

#### **B. Drilling Mud**

13. The drilling mud delivered to the Site contained various heavy metals including arsenic, cadmium, chromium, mercury, and lead.

14. After the drilling mud was delivered to the Site, Castex placed it in either an on-site pit or a system of on-site tanks.

15. Castex took various steps to separate oil and water from the drilling mud and stored the remaining solid material on-site.

16. The solid material created by Castex from the drilling mud contained various heavy metals including arsenic, cadmium, chromium, mercury, and lead.

## **II. The Removal Action**

17. By letter dated May 15, 1996, the Louisiana Department of Natural Resources requested that the United States Environmental Protection Agency ("EPA") consider the Site for a removal action.

18. On July 23, 1996, the EPA federal on-scene coordinator ("FOSC") inspected the Site in response to the request from LDNR. At that time, the FOSC determined that there was a substantial threat of a discharge of oil into the Mermentau River from the Site.

19. Using funds from the Oil Spill Liability Trust Fund created under the Oil Pollution Act of 1990 ("OPA"), 33 U.S.C. § 2701 et seq., the FOSC initiated a multi-phased removal action.

20. During the first phase of the removal action, on-site wastes were sampled, and arsenic, barium, cadmium, chromium, lead, and selenium were found in soils and tanks.

21. During the second phase of the removal action, sampling showed that the surface and subsurface of portions of the Site associated with handling produced

saltwater were contaminated with NORM.

22. During the third phase of the removal action, scrap, tank sludge, saltwater, NORM contaminated steel, and NORM contaminated tank bottom sludge were disposed of.

23. During the final phase of the removal action, sludge from pits and tanks was removed for off-site disposal; scrap metal was removed for off-site disposal; and salt water was disposed of off-site.

24. The final day of on-site removal activity was October 25, 2001.

25. The FOSC submitted a final Pollution Report, sometimes referred to as a POLREP, on October 29, 2001.

26. A Removal Report for the Site was prepared by Roy F. Weston, Inc. dated November 2001.

27. In total, the United States has incurred removal costs of at least \$2,823,641 at the Site. The funding was provided by the Oil Spill Liability Trust Fund.

#### CERCLA LIABILITY

28. CERCLA Section 107(a)(3), 42 U.S.C. § 9607(a)(3), provides in pertinent part:

Notwithstanding any other provision or rule of law, and subject only to the defenses set forth in subsection (b) of this section-

\* \* \* \*

(3) any person who by contract, agreement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of hazardous substances owned or possessed by such person, by any other party or entity at any facility . . . owned or operated by another party or entity

and containing such hazardous substances . . .  
from which there is a release, or a threatened release which  
causes the incurrence of response costs, of a hazardous  
substance, shall be liable for--

(A) all costs of removal or remedial action incurred by the  
United States Government or a State or an Indian tribe not  
inconsistent with the national contingency plan[.]

29. The Site, including its surface and sub-surface soils and water, is a  
"facility," within the meaning of CERCLA Sections 101(9) and 107(a), 42 U.S.C.  
§§ 9601(9) and 9607(a).

30. The substances contaminating soils and surface waters at the Site were  
"hazardous substances," within the meaning of CERCLA Sections 101(14), 104(a),  
and 107(a), 42 U.S.C. §§ 9601(14), 9604(a), and 9607(a).

31. There was a "release" or "threatened release" of hazardous substances  
into the environment at and from the Site, within the meaning of CERCLA Sections  
101(8), 101(14), 101(22), 104(a), and 107(a), 42 U.S.C. §§ 9601(8), 9601(14),  
9601(22), 9604(a), and 9607(a).

32. Hazardous substances were "disposed" of at the Site, within the  
meaning of Sections 101(14), 101(29) and 107(a) of CERCLA, 42 U.S.C.  
§ § 9601(14), 9601(29) and 9607(a).

#### CLAIM FOR RELIEF

33. The allegations of the foregoing paragraphs are incorporated herein by  
reference.

34. The United States has incurred approximately \$2.8 million in response  
costs, as defined in CERCLA Section 101(25), 42 U.S.C. § 9601(25), as a result of  
the release or threatened release of hazardous substances at the Site.

35. Pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), each Defendant is jointly and severally liable for all costs of removal or remedial action incurred by the United States Government at the Site not inconsistent with the national contingency plan, 40 C.F.R. Part 300, and for interest accruing from the date payment of a specified amount is demanded in writing.

PRAYER FOR RELIEF

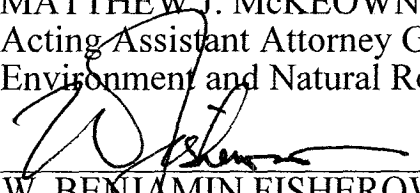
WHEREFORE, the United States respectfully requests that this Court enter judgment against Defendants as follows:

- A. Order Defendants to pay all costs incurred by the United States in response to the release or threatened release of hazardous substances at or from the Site;
- B. Order Defendants to pay interest on the United States' costs accruing from the date payment of a specified amount is demanded in writing.
- C. Award the United States its costs and disbursements in this action; and
- D. Grant the United States such other relief as the Court deems just and proper.

Respectfully submitted,

UNITED STATES DEPARTMENT OF JUSTICE

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